

KARIN J. IMMERGUT, United States Attorney  
JEFFREY K. HANDY, OSB #84051  
[jeff.handy@usdoj.gov](mailto:jeff.handy@usdoj.gov)  
Assistant United States Attorney  
1000 S.W. Third Ave., Suite 600  
Portland, OR 97204-2902  
Telephone: (503) 727-1013  
Telefax: (503) 727-1117

KELLY A. JOHNSON  
Acting Assistant Attorney General  
Environment & Natural Resources Division  
JEAN WILLIAMS, Section Chief  
COBY HOWELL, Trial Attorney (WY Bar No. 6-3589)  
U.S. Department of Justice  
Environment & Natural Resources Division  
Wildlife & Marine Resources Section  
Email: [coby.howell@usdoj.gov](mailto:coby.howell@usdoj.gov)  
Ben Franklin Station, P.O. Box 7369  
Washington, D.C. 20044-7369  
Phone: (202) 305-0201  
Fax: (202) 305-0275

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

CENTER FOR BIOLOGICAL DIVERSITY,

CV-05-274-HA

Plaintiff,

v.

DAVE ALLEN, Regional Director,  
United States Fish and Wildlife Service,

Defendant.

PLAINTIFF AND DEFENDANTS'  
STIPULATION AND  
SETTLEMENT REGARDING  
ATTORNEYS' FEES AND COSTS  
AND PROPOSED ORDER

---

Whereas plaintiff has moved for an award of fees and costs against the defendants under the Endangered Species Act, 16 U.S.C. § 1540(g)(4) ("ESA"), for the time and costs they have

expended on this litigation;

Whereas the Court, on September 7, 2005, entered an Order finding that plaintiff was entitled to attorneys' fees under the ESA;

Whereas plaintiff and defendants desire to resolve plaintiff's claim for fees and costs without the need for an expenditure of significant additional time or resources on that issue by the parties or the Court;

Whereas plaintiff and defendants agree that it is in the public interest to avoid a protracted dispute over the fee and cost issue;

Whereas plaintiff and defendants have now reached a settlement of the fee and cost claim that does not entail any concession of law or fact by either plaintiffs or federal defendants;

It is therefore stipulated and agreed to, by and between plaintiff and defendants that:

1. Defendants will pay plaintiff, pursuant to section 11(g) of the ESA, \$11,000.00 in full settlement of plaintiff's claim for attorneys' fees and costs through the date of the filing of this Stipulation. Defendants will issue a check in that amount to:

Brent Plater  
Center for Biological Diversity  
San Francisco Bay Area Office  
1095 Market Street, Suite 511  
San Francisco, CA 94103  
Telephone: (415) 436-9682 x 301  
Facsimile: (415) 436-9583  
bplater@biologicaldiversity.org

2. Defendants agree to submit all necessary paperwork to funding authorities at the Department of the Treasury within ten (10) business days of receipt of the signed court order approving this stipulation.

3. It is further stipulated that this Stipulation and agreement applies only to attorneys'

time and litigation costs expended prior to the date of the filing of this Stipulation. It does not waive plaintiff's right to seek fees or costs for time expended in this or any other litigation following the date of the filing of this Stipulation. Defendants reserve the right to contest any future attempt to seek fees or costs by plaintiff.

4. This stipulation as to attorneys' fees and costs has no precedential value and its contents shall not be used as evidence in any other attorneys' fees litigation. By this agreement, defendants do not waive any right to contest fees claimed by plaintiffs or plaintiffs' counsel, including the hourly rate, in any future litigation.

DATED: October 26, 2005.

By Permission:

/s / Brent Plater  
CHRIS WINTER (OSB# 98435)  
Cascade Resources Advocacy Group  
917 SW Oak St., Suite 417  
Portland, OR 97205  
Telephone: (503) 525-2725  
Facsimile: (503) 296-5454  
chris@crag.org

BRENT PLATER (CSB# 209555)  
Center for Biological Diversity  
San Francisco Bay Area Office  
1095 Market Street, Suite 511  
San Francisco, CA 94103  
Telephone: (415) 436-9682 x 301  
Facsimile: (415) 436-9583  
bplater@biologicaldiversity.org

KARIN J. IMMERGUT, United States Attorney  
JEFFREY K. HANDY, OSB #84051  
[jeff.handy@usdoj.gov](mailto:jeff.handy@usdoj.gov)<mailto:jeff.k.handy@usdoj.gov>  
Assistant United States Attorney  
1000 S.W. Third Ave., Suite 600  
Portland, OR 97204-2902  
Telephone: (503) 727-1013  
Telefax: (503) 727-1117

KELLY A. JOHNSON  
Acting Assistant Attorney General  
Environment & Natural Resources Division

JEAN WILLIAMS, Section Chief

/s/ Coby Howell

COBY HOWELL, Trial Attorney (WY Bar No. 6-3589)

U.S. Department of Justice

Environment & Natural Resources Division

Wildlife & Marine Resources Section

Email: coby.howell@usdoj.gov

Ben Franklin Station, P.O. Box 7369

Washington, D.C. 20044-7369

Phone: (202) 305-0201

Fax: (202) 305-0275

Of Counsel:

DIANE HOOBLER

Office of Solicitor

Department of Interior

Portland, Oregon

IT IS SO ORDERED

DATED this 26 day of Oct, 2005.

A handwritten signature in black ink, appearing to read "C. L. Haggerty", written over a horizontal line.

UNITED STATES DISTRICT COURT JUDGE